



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2013-0780; FRL-9921-27-Region-5]

**Approval and Promulgation of Air Quality Implementation Plans;
Indiana; Minor NSR for Title V and FESOP Sources**

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to Indiana's minor new source review construction permit rule. The rule applies to construction of new units or modifications of existing units at sources subject to title V and Federal enforceable state operating permit requirements. If approved, this rule will replace the previous state implementation plan (SIP) minor source construction permit rule for Indiana.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2013-0780, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: damico.genevieve@epa.gov.
3. Fax: (312) 385-5501.

4. Mail: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2013-0780. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know

your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the SUPPLEMENTARY INFORMATION section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental

Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sam Portanova, Environmental Engineer, at (312) 886-3189 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, portanova.sam@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Is Being Addressed in This Document?
- III. What Are the Changes that EPA Is Approving?
- IV. What Action Is EPA Taking?
- V. Statutory and Executive Order Reviews.

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Is Being Addressed in This Document?

On November 7, 2013, the Indiana Department of Environmental Management (IDEM) submitted a SIP revision request to EPA for minor new source review (NSR) construction permit

rules. EPA last approved Indiana's minor construction permit rules (326 IAC 2-1) on October 7, 1994 (59 FR 51108). In this action, EPA is approving amendments to 326 IAC 2-7-10.5(a), (c) through (j), (l), and (m), and to 326 IAC 2-8-11.1 as revisions to Indiana's SIP. These provisions do not apply to permitting actions that trigger major prevention of significant deterioration (PSD) or nonattainment NSR requirements. 326 IAC 2-7-10.5 and 326 IAC 2-8-11.1 replace 326 IAC 2-1, which has been repealed in the state rules, as the minor NSR construction permit rules in the Indiana SIP.

III. What Are the Changes that EPA Is Approving?

326 IAC 2-7-10.5 is Indiana's minor source construction permit rule for sources that are subject to the title V operating permit program. 326 IAC 2-8-11.1 is Indiana's minor source construction permit rule for sources that are subject to the Federally enforceable state operating permit (FESOP) program. The requirements and emission thresholds under these two rules are essentially the same and we are providing one summary below that covers both rules. These rules apply to permitting actions that are not subject to PSD or nonattainment NSR. Any permit modification that exceeds the PSD or nonattainment NSR thresholds in 326 IAC 2-2 and 326 IAC 2-3 continues to be subject to the requirements of those rules.

Pursuant to 326 IAC 2-7-10.5(e) or 326 IAC 2-8-11.1(d), a permitting action is subject to the minor modification requirements of this rule if it has a potential to emit (PTE) greater than or equal to the following: 5 tons per year (tpy) of particulate matter (PM), PM less than 10 microns in size (PM_{10}), PM less than 2.5 microns in size ($PM_{2.5}$), hydrogen sulfide (H_2S), total reduced sulfur (TRS), reduced sulfur compounds, or fluorides; 10 tpy of sulfur dioxide (SO_2), nitrogen oxide (NO_x), or volatile organic compounds (VOC); 25 tpy of carbon monoxide (CO); or 0.2 tpy of lead. For VOC emissions, the minor modification requirements apply if the PTE is greater than or equal to 5 tpy for modifications that require the use of air pollution control equipment to comply with the provisions of 326 IAC 8.

For permitting actions that meet the criteria for minor modification under this rule, the source is required to submit a permit application to IDEM pursuant to 326 IAC 2-7-10.5(d) or 326 IAC 2-8-11.1 (c). Pursuant to 326 IAC 2-7-10.5(f) or 326 IAC 2-8-11.1(e), within 45 days of receipt of the application, IDEM shall approve the request, deny the request, determine that the request would cause or contribute to a violation of a national ambient air quality standard (NAAQS) or a PSD increment standard, or determine that the request is subject to the

significant modification provisions of this rule.

Pursuant to 326 IAC 2-7-10.5(g) or 326 IAC 2-8-11.1(f)(1), a permitting actions is subject to the significant modification requirements if it has a PTE greater than or equal to 100 tpy of CO or 25 tpy of PM, PM₁₀, PM_{2.5}, SO₂, NO_x, VOC, H₂S, TRS, reduced sulfur compounds, or fluorides. For lead, the significant modification requirements apply for any modification with a PTE greater than or equal to 1 tpy. If the entire source has a lead PTE of greater than or equal to 5 tpy, the significant modification requirements apply for a modification with a lead PTE greater than 0.6 tpy.

In addition to the requirements for a minor modification, 326 IAC 2-7-10.5(h) and 326 IAC 2-8-11.1(f)(2) require a permitting action that meets the criteria for a significant modification under this rule to go through public notice prior to permit issuance pursuant to 326 IAC 2-1.1-6 (which EPA approved into Indiana's SIP on March 3, 2003 (68 FR 9892)). Public notice requirements for significant permit revisions under 326 IAC 2-8-11.1 are conducted pursuant to 326 IAC 2-8-13 (which EPA approved into Indiana's SIP on August 18, 1995 (60 FR 43008)). This satisfies the public notice requirements for minor construction permits in 40 CFR 51.161.

The significant modification emission thresholds for

pollutants other than CO are the same as those contained in Indiana's existing SIP-approved minor NSR rules. The 100 tpy CO emission threshold for significant modifications, however, is less stringent than the 25 tpy applicability threshold in the existing SIP-approved Indiana minor NSR rules. IDEM included an analysis in the November 7, 2013, SIP submittal to EPA demonstrating that the 100 tpy threshold is protective of the CO NAAQS. In the analysis, IDEM reviewed CO point source emissions and ambient air monitoring data from 2000 through 2012. IDEM selected recent PSD sources for modeling at 100 tpy with the modeled results compared to the 1-hour and 8-hour CO significant impact levels (SILs). The modeling results showed no exceedances of either the 1-hour or 8-hour CO SILs. Existing CO monitors in Indiana show ambient values well below the NAAQS. As a result, IDEM has shown that ambient air quality will remain well below the NAAQS, even with the addition of sources that emit CO at 100 tpy. Indiana's analysis of the CO threshold satisfies 40 CFR 51.160(e), which requires states to identify sources that will be subject to minor construction permit provisions and discuss the basis for determining which sources will be subject to review. EPA proposes approval of the minor and significant modification thresholds in 326 IAC 2-7-10.5 and 326 IAC 2-8-11.1.

326 IAC 2-7-10.5(c) and 326 IAC 2-8-11.1(b) allow sources to repair or replace an emission unit or air pollution control equipment without prior approval. To qualify for this provision, a modification must meet the following criteria: 1) the PTE of each regulated pollutant after the modification is less than or equal to the PTE of the unit that was repaired or replaced; 2) the modification is not major under 326 IAC 2-2, 326 IAC 2-3, or 326 IAC 2-4.1¹; and 3) the modification returns the unit to normal operation after an upset, malfunction, or mechanical failure or prevents impending and imminent failure of the unit. Item 2 above means any action that would trigger major PSD, nonattainment NSR, or hazardous pollutant requirements under Section 112(g) of the Clean Air Act (CAA) is not eligible for this provision. Since sources must meet all three of the criteria listed above in order to qualify for the repair or replacement provision, EPA believes that these criteria sufficiently narrow the universe of modifications that are eligible. EPA proposes approval of 326 IAC 2-7-10.5(c) and 326 IAC 2-8-11.1(b).

326 IAC 2-7-10.5(b) and (k) address provisions for incorporating terms from Federal consent decrees and Federal district court orders into construction permits. EPA previously

¹ 326 IAC 2-4.1 is IDEM's regulation implementing the requirements of Section 112(g) of the Clean Air Act for sources with hazardous air pollutant (HAP) emissions above 10 tpy for a single HAP or 25 tpy for a combination of HAPs.

approved these portions of 326 IAC 2-7-10.5 into Indiana's SIP on January 17, 2014 (79 FR 3120).

IV. What Action Is EPA Taking?

EPA is proposing to approve Indiana's minor source construction permit rule in 326 IAC 2-7-10.5(a), (c) through (j), (l), and (m), and 326 IAC 2-8-11.1. EPA has determined that the emission thresholds and permitting requirements discussed above satisfy the requirements of 40 CFR 51.160 and 51.161. EPA is not proposing action on 326 IAC 2-7-10.5(b) and (k) because these portions of the state's rule have already been approved into Indiana's SIP.

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 22, 2014.

Susan Hedman,
Regional Administrator, Region 5.

[FR Doc. 2014-30832 Filed 01/02/2015 at 8:45 am; Publication
Date: 01/05/2015]